

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

ELITE AVIATION SERVICE, LLC et al.

PLAINTIFFS/ COUNTER-DEFENDANTS

vs.

CASE NO. 5:19-cv-05134-PKH

**ACE POOLS, LLC, and
TRACY WELCHEL**

DEFENDANTS/COUNTER-CLAIMANTS

SEPARATE DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS

COMES NOW, separate Defendant/Counter-Claimant Tracy Welchel (“Welchel”) by and through his attorneys, Natural State Law, PLLC, and Denton and Zachary, PLLC, and for his Statement of Undisputed Materials Facts, respectfully states:

1. The Federal Aviation Administration (“FAA”) has a website which lists aircraft and their owners. (Exhibit 1).
2. According to the FAA, ACE Pools, LLC, (“ACE”) owns the 1985 Cessna 182 aircraft, tail number N9493X, serial number 18268539 which is the centerpiece of this litigation (the “Aircraft”). (*FAA Registry*, Exhibit 2, *Deposition of Tracy Welchel*, Exhibit 3).
3. ACE is an Oklahoma limited liability company in good standing. (*Oklahoma Company Details*, Exhibit 4).
4. Mr. Tracy Welchel is the sole member and the manager of ACE. (*Operating Agreement*, Exhibit 5, p 1 & 3, *Deposition of Welchel*, Exhibit 6, p 1).
5. Mr. Tracy Welchel states the counterclaim in this litigation belongs to ACE not to him. (*Welchel Exhibit 7*, p 1, 2).
6. Elite Aviation Services, LLC, recognized ACE as the owner of the plane and

intended to send its invoices to ACE's place of business at 12177 Griffin Lane, Choctaw, OK 73020, but its invoices included a typographical error and mistakenly used the address "1217 Griffin Lane, Choctaw, OK 73020." (Emphasis added.) (*Invoices*, Exhibit 8, pp 1-11).

7. All payments made to Elite Aviation Service, LLC were by and on behalf of ACE Pools, LLC and all checks paid by ACE to Elite Aviation Service, LLC were paid from a BancFirst account which was owned by ACE Pools, LLC. (*Copies of Checks*, Exhibit 9).

8. Ms. Kellye Beavers, is the Director of Administration for Elite Aviation, LLC. (*Deposition of Kellye Beavers*, Exhibit 10).

9. Ms. Kellye Beavers uses the FAA registry to determine who owns a particular aircraft. (*Beavers* Exhibit 11).

10. Ms. Kelley Beavers acknowledged that the Aircraft belongs to ACE. (*Beavers* Exhibit 12).

WHEREFORE, based on the above undisputed material facts, Separate Defendant, Tracy Welchel respectfully requests Court grant his Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, dismissing him individually from this case, and for all just and proper relief to which he may be entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, William J. Changose, do hereby certify that a true and correct copy of the foregoing Statement of Undisputed Material Facts has been served upon following counsel of record via the Court's Electronic Filing system:

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on this the 21th day of July, 2020.

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